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7

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,	)	Criminal Case No. 08CR1003-WQH
	)	
12 Plaintiff,	)	DATE: August 21, 2008
	)	TIME: 2:00 p.m.
13 v.	)	
	)	GOVERNMENT'S RESPONSE IN
14	)	OPPOSITION TO DEFENDANT'S MOTION
15 LUIS MANUEL GOMEZ-DOMINGUEZ,	)	TO DISMISS INDICTMENT BASED ON
	)	FLAWED DEPORTATION PROCEEDINGS,
16 Defendant.	)	TOGETHER WITH STATEMENT OF
	)	FACTS, AND MEMORANDUM OF POINTS
17	)	AND AUTHORITIES

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18 The UNITED STATES OF AMERICA, by and through its counsel, KAREN  
19 P. HEWITT, United States Attorney, and Anne Kristina Perry, Assistant  
20 U.S. Attorney, respectfully submits this Response in Opposition to the  
21 Defendant's Motion to Dismiss the Indictment. This Response is made  
22 and based upon the pleadings and papers on file herein, the attached  
23 Memorandum of Points and Authorities, and the various Exhibits  
24 attached hereto.  
25

26 I.

27 STATEMENT OF FACTS

28 According to available immigration records, Defendant LUIS MANUEL

1 GOMEZ-DOMINGUEZ was born on January 10, 1988, in the Republic of  
2 Mexico [Exhibits 1, 2]. His parents are both citizens of Mexico  
3 [Exhibit 2]. His only relative in the United States appears to be his  
4 uncle. [Exhibit 3, Defense Exhibit B, page 8].

5 On February 8, 2007, the Defendant was convicted in the Arkansas  
6 Circuit Court in Benton City, Arkansas, on a charge of Sexual  
7 Indecency of a Minor, in violation of Arkansas Criminal Code Section  
8 5-14-110(a)(1). This statute is a Class D Felony, which carries a  
9 sentence of a maximum six years' incarceration. A.C.A. § 5-4-  
10 401(a)(5). Defendant was sentenced to 120 days imprisonment and sixty  
11 months' probation. On February 29, 2008, Defendant sustained a  
12 conviction in the United States Southern District Court for making a  
13 false statement to a federal officer in violation of 18 U.S.C. § 1001,  
14 for which he received time served and three years supervised release.

15 As noted in the Defendant's papers, he was ordered deported on  
16 April 9, 2007 [Exhibit 4]. During the deportation hearing, the  
17 Immigration Judge (IJ) asked the Defendant if he wished to "accept the  
18 decision of the court or reserve appeal" [Defense Exhibit B, p. 9].  
19 GOMEZ-DOMINGUEZ, through the interpreter, stated that he "accept[ed]  
20 the decision according to the court," [Id.]. It must be noted that  
21 on the IJ's order, it mentions that the "Respondent has made no  
22 application for relief from removal". GOMEZ-DOMINGUEZ was then  
23 removed from the United States through Hidalgo, Texas, on April 24,  
24 2007 [Exhibit 5].

25 On September 29, 2007, the Defendant made a False Statement, in  
26 violation of Title 18, United States Code, Section 1001 [Exhibit 6].  
27 Following his conviction on that charge [Exhibit 7], he was once  
28 again removed from the United States [Exhibit 8]. GOMEZ-DOMINGUEZ has

1 never claimed to have any legal right to enter the United States.  
2 Moreover, there exists no record that he has ever applied for re-  
3 admission into the United States. [Exhibit 9]

4 II.

5 ARGUMENT

6 The Defendant contends that his 2007 deportation was defective  
7 in several respects. An examination of his arguments reveals them to  
8 be without merit.

9 When an alien is charged with § 1326 violation, a collateral  
10 attack on the underlying deportation is permitted if the alien can  
11 show his due process rights were violated and he suffered prejudice  
12 as a result of the violation. United States v. Arrieta, 224 F.3d  
13 1076, 1079 (9th Cir. 2000). For an alien to collaterally attack a  
14 predicate deportation under § 1326, he must show: (1) he exhausted all  
15 available administrative remedies; (2) the underlying removal  
16 proceedings deprived him the opportunity of judicial review; and (3)  
17 the entry of order was fundamentally unfair. United States v. Ubaldo-  
18 Figueroa, 364 F.3d 1042, 1048 (9th Cir. 2004). The Ninth Circuit has  
19 interpreted the final prong to require a showing that the alien's due  
20 process rights were violated and he suffered prejudice as a result of  
21 those defects. Id. However, the alien must show prejudice occurred  
22 because of the violation for relief to be available. Ubaldo-Figueroa,  
23 364 F.3d at 1048. This is done by illustrating "plausible" relief  
24 from deportation. Id. at 1050. It is not sufficient that the alien  
25 would have availed himself of the procedure. The alien must "produce  
26 some concrete evidence indicating that the violation of a procedural  
27 protection actually had the potential for affecting the outcome of his  
28 or her deportation proceedings." United States v. Cerda-Pena, 799

1 F.2d 1374, 1379 (9th Cir. 1986).

2 **A. THE IMMIGRATION PROCEEDINGS WERE NOT FLAWED BY VIRTUE OF**  
3 **DEFENDANT NOT BEING REPRESENTED BY COUNSEL**

4 GOMEZ-DOMINGUEZ was not represented by an attorney in his  
5 deportation proceedings. He was not entitled to free counsel, but  
6 counsel at his own expense. Rios-Berrios v. INS, 776 F.2d 859, 862  
7 (9<sup>th</sup> Cir. 1985). The IJ advised him of his right to obtain retained  
8 counsel, and he elected to proceed without counsel (Def. Exh. B, p.4).

9 The Ninth Circuit has explained the standard for an applicant to  
10 appear pro se in Immigration Court:

11 We have repeatedly explained that for an applicant to  
12 appear pro se, there must be a knowing and voluntary waiver  
13 of the right to counsel. See, e.g., Velasquez Espinosa v.  
14 INS, 404 F.2d 544, 546 (9th Cir.1968). In order for a  
15 waiver to be valid, an IJ must generally: (1) inquire  
16 specifically as to whether petitioner wishes to continue  
17 without a lawyer; see Reyes-Palacios v. INS, 836 F.2d 1154,  
18 1155-56 (9th Cir.1988); Colindres-Aguilar v. INS, 819 F.2d  
19 259, 261 (9th Cir.1987); Castro-Nuno v. INS, 577 F.2d 577,  
20 579 (9th Cir.1978); and (2) receive a knowing and voluntary  
21 affirmative response. See Castro-O'Ryan v. INS, 847 F.2d  
22 1307, 1313 (9th Cir.1988); Colindres-Aguilar, 819 F.2d at  
23 261; Rios-Berrios v. INS, 776 F.2d at 863. Failure to  
24 obtain such a waiver is an effective denial of the right to  
25 counsel, which, "in the light of the entire administrative  
26 record," may be an abuse of discretion. See Castro-O'Ryan,  
27 847 F.2d at 1312.

28 Tawadrus v. Ashcroft, 364 F.3d 1099, 1103 (9<sup>th</sup> Cir. 2004). Here, the  
Immigration Judge advised the Defendant of his right to counsel, and  
the Defendant decided to proceed without counsel. Although the  
deportation tape is a bit hard to hear, it is clear from the remaining  
dialog between the IJ and the Defendant that the Defendant was  
comfortable proceeding without counsel. The objective evidence before  
this Court is that the Defendant executed a valid waiver of counsel  
and proceeded in pro se.

1     **B.     THE DEFENDANT WAS NOT ENTITLED TO ANY RELIEF**

2             Gomez-DOMINGUEZ claims that his 2007 deportation hearing was  
3     flawed because the immigration judge "failed to advise him of relief  
4     for which he was plainly eligible." While it is true that the  
5     defendant need only show "plausible" grounds for relief, GOMEZ-  
6     DOMINGUEZ was not entitled to any relief, and thus the IJ did not err.

7             Title 8, United States Code, Section 1101(43) lists aggravated  
8     felonies which, among other things, would preclude an illegal alien  
9     from obtaining relief in a deportation hearing. "Aggravated felonies"  
10    include murder, rape, or sexual abuse of a minor; crimes of violence  
11    for which the terms of imprisonment is at least one year, and,  
12    importantly, "an attempt or conspiracy to commit an offense described  
13    in this paragraph.

14            Gomez-Dominguez' conviction for "sexual indecency with a child"  
15    was a conviction for an aggravated felony which renders him ineligible  
16    for relief from deportation. He was charged with a violation of  
17    A.C.A. § 5-14-110(a)(1), which occurs when a person, being 18 years  
18    or older, solicits another person who is less than fifteen years of  
19    age or who is represented to be less than fifteen years of age to  
20    engage in sexual intercourse, deviate sexual activity, or sexual  
21    contact. "The gravamen of the offense set out in Ark. Code Ann § 5-  
22    14-110 (a) is the inducement of a child to engage in a sexual act."  
23    Renderos v. State, 92 Ark. App. 293, 294 213 S.W. 37 (2005). The  
24    charging document pertinent to GOMEZ-DOMINGUEZ is consistent with this  
25    interpretation [Exhibit 10].

26            Contrary to the Defendant's assertions, this statute is  
27    "categorically" an aggravated felony. Under the categorical approach,  
28    an offense meets the definition of "'sexual abuse of a minor,'

1 constituting an aggravated felony rendering an alien ineligible for  
2 cancellation of removal, only if any and all conduct proscribed by the  
3 criminal statute of conviction falls within that category." Parilla  
4 v. Gonzales, 414 F.3d 1038 (9<sup>th</sup> Cir. 2005). In Parilla, the Ninth  
5 Circuit upheld a decision of the Bureau of Immigration Affairs finding  
6 that "sexual abuse of a minor" included any offense that involves the  
7 "employment, use, persuasion, inducement, enticement, or coercion of  
8 a child to engage in, or assist another person to engage in sexually  
9 explicit conduct or the rape, molestation, prostitution, or other form  
10 of sexual exploitation, or incest with children." Id. at 1041.

11 The Arkansas statute which is the basis for the Defendant's  
12 conviction is very similar to the matter considered in Parilla. At  
13 bare minimum, the statute as a whole prohibits an attempt to commit  
14 sexual abuse of a child, which, as noted above, is considered an  
15 aggravated felony.

16 The Defendant also asserts that the Immigration Judge was obliged  
17 to advise him of potential grounds for relief from deportation. Where  
18 such grounds exist, indeed the Immigration Judge must act  
19 appropriately. As noted by the Ninth Circuit in United States v.  
20 Muro-Inclan, 249 F.3d 1180, 1183-1184 (9<sup>th</sup> Cir. 2001):

21 INS regulations require that a person facing deportation be  
22 advised of the possibility for relief from deportation. 8  
23 C.F.R. § 240.49(a) ("The immigration judge shall inform the  
24 respondent of his or her apparent eligibility to apply for  
25 ... [a waiver of deportation] and shall afford the  
26 respondent an opportunity to make application therefor  
27 during the hearing.") This Court has repeatedly held that  
28 this provision is "mandatory." See Arrieta, 224 F.3d at  
1079; United States v. Arce-Hernandez, 163 F.3d 559, 563  
(9<sup>th</sup> Cir. 1998). Accordingly, where the record, "fairly  
reviewed by an individual who is intimately familiar with  
the immigration laws-as IJs no doubt are-raises a  
reasonable possibility that the petitioner may be eligible  
for relief, the IJ must inform the alien of this  
possibility and give him the opportunity to develop the



1 issue." Moran-Enriquez, 884 F.2d at 423. Immigration Judges  
2 "are not expected to be clairvoyant; the record before them  
3 must fairly raise the issue." Id. at 422. Failure to so  
4 inform the alien is a denial of due process that  
5 invalidates the underlying deportation proceeding. See  
6 Arrieta, 224 F.3d at 1079.

7 However, an alien must meaningfully raise issues before the  
8 Immigration Judge. Where it is not "apparent from [an alien's]  
9 testimony or evidence that [he] might be eligible for such relief, [an  
10 immigration] judge ha[s] no duty to advise [him] of such relief."  
11 Muro-Inclan, supra, 249 F.3d at 1183-84, citing United States v.  
12 Barraza-Leon, 575 F.3d 218, 222 (9<sup>th</sup> Cir. 1978).

13 It is noteworthy that although the Defendant has claimed that the  
14 IJ did not make sufficient inquiry of avenues of relief, the Defendant  
15 has failed to show what those avenues of relief would have been.  
16 True, the Defendant may have been a minor when he initially crossed  
17 into the United States. However, despite mention in his pleadings  
18 that "abused children and women" may have some relief in immigration  
19 proceedings, he has provided absolutely no proof that he would fall  
20 into such a category of persons. Nor is there any evidence from the  
21 defendant's A-file that would give rise to such a claim.

22 The IJ here did ask the Defendant if his parents were U.S.  
23 Citizens (Defense Exhibit B, p.8). He said they were not. The  
24 Immigration Judge asked if the Defendant had family within the United  
25 States. He said he had an uncle. Uncles have no ability to confer  
26 immigration status on nieces or nephews. There is absolutely no  
27 information in the Defendant's immigration background that would  
28 indicate he had any valid avenues of relief.

These removal proceedings did not deprive GOMEZ-DOMINGUEZ the  
opportunity of judicial review, nor was the entry of order

1 fundamentally unfair. Pursuant to Ubaldo-Figueroa, supra, this Court  
2 must uphold the validity of the deportation.

3 C. THE DEFENDANT VALIDLY WAIVED HIS RIGHT TO APPEAL

4 The IJ asked GOMEZ-DOMINGUEZ if he wanted to reserve appeal in  
5 this case. The Defendant indicated that he would accept the order of  
6 the court [Defense Exhibit B, p.9]. Thereafter, GOMEZ-DOMINGUEZ left  
7 the United States, only to come back a few months later. He later  
8 left again, pursuant to an administrative removal [Exhibit 8].

9 Pursuant to 8 C.F.R. §1003.3(e), "[d]eparture from the United  
10 States of a person who is the subject of deportation proceedings,  
11 prior to the taking of an appeal from a decision in his or her case,  
12 shall constitute a waiver of his or her right to appeal." GOMEZ-  
13 DOMINGUEZ has come back to the United States at least twice since the  
14 2007 deportation. He has not re-opened his case, nor made any claim  
15 for relief until now. In his previous prosecution in this district,  
16 he was represented by the same able counsel and there were no efforts  
17 to review the alleged deficiencies at that time. The record indicates  
18 that there was a valid waiver of the right to appeal.

19 V

20 CONCLUSION

21 For the foregoing reasons, the United States asks that the Court  
22 deny Defendant's motion.

23 DATED: July 8, 2008

24 Respectfully submitted,

25 KAREN P. HEWITT  
26 United States Attorney  
S/Ane Kristina Perry  
27 ANNE KRISTINA PERRY

28 Assistant United States Attorney  
anne.perry2@usdoj.gov



# **EXHIBIT 1**

Form I-215B  
(Rev. 9-1-72)

## UNITED STATES DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

## RECORD OF SWORN STATEMENT IN AFFIDAVIT FORM

## AFFIDAVIT

Case No: [REDACTED]

IN RE: LUIS MANUEL GOMEZ-DOMINGUEZ

FILE NO. [REDACTED]

EXECUTED AT IMPERIAL BEACH, CADATE March 4, 2008Before the following officer of the U.S. Immigration and Naturalization Service: JASON L. GLANCEin the SPANISH language. Interpreter NONE used.

I, LUIS M. GOMEZ-DOMINGUEZ, acknowledge that the above-named officer has identified himself to me as an officer of the United States Immigration and Naturalization Service, authorized by law to administer oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. He has informed me that he desires to take my sworn statement regarding: MY ILLEGAL REENTRY INTO THE UNITED STATES

He has told me that my statement must be freely and voluntarily given and has advised me of these rights:

"You have the right to remain silent.

Anything you say can be used against you in court, or in any immigration or administrative proceeding.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer."

I am willing to make a statement without anyone else being present. I swear that I will tell the truth, the whole truth, and nothing but the truth, so help me, God.

Being duly sworn, I make the following statement:

Q. Are you under the influence of any mind altering substances at this time (medications, alcohol or drugs)?

A. No

Q. Are you willing to answer my questions at this time without a lawyer present?

A. Yes

Q. Do you swear that all the statements you are about to make will be the truth, the whole truth and nothing but the truth, so help you God?

A. Yes

Q. What is your true and correct name?

A. Luis Manuel Gomez-Dominguez

Q. Have you used any other names?

A. No

Q. Of what country are you a citizen?

A. Mexico

Q. What is your date and place of birth?

A. 01/10/1988 Mexico, Toluca

Q. Have you ever been ordered deported, excluded, or removed from the United States?

A. Yes

Q. How and where did you enter the United States at that time?

A. Tecate, crossing the line

Q. After you were ordered deported, excluded, or removed, were you removed by the INS or did you leave the United States voluntarily?

A. by the immigration Service

Q. Have you ever applied to the Attorney General of the United States for permission to re-enter the United States after you were deported, excluded, or removed from the United

X L M G

Alien's Name	File Number	Date
LUIS MANUEL GOMEZ-DOMINGUEZ	<del>Case Number</del> 25	March 4, 2008

States?

A. No

Q. When did you last enter the United States?

A. This Morning

Q. Do you have any fear of persecution or torture should you be removed from the United States?

A. No

Q. Where were you heading(city and state)?

A. Los Angeles, to work.

Q. Is there anything else you would like to say at this time?

A. No

I have read (or have had read to me) the foregoing statement consisting of 2 pages. I affirm that the answers attributed to me herein are true and correct to the best of my knowledge and belief and that this statement is a full, true, and correct record of my questioning by the above-named officer of the Immigration and Naturalization Service. I have initialized each page of this statement.

Signature of alien: Luis M Gomez D

Subscribed and sworn to me at: The Imperial Beach Border Patrol Station San Diego, California on March 4, 2008.

Ryan Bear  
(Signature of Immigration Officer)

D. E.  
(Signature of Witness)

Signature	Title
<u>Brent E. Johnson</u>	<u>Acting Patrol Agent In Charge</u>

2 of 2 Pages

## **EXHIBIT 2**

U.S. Department of Justice  
Immigration and Naturalization Service

**Record of Sworn Statement in Proceedings  
under Section 235(b)(1) of the Act**

Office: OTAY MESA, CA, POE

File No. 257

Statement by: LUIS M. GOMEZ DOMINGUEZ

In the case of: LUIS M. GOMEZ DOMINGUEZ

Date of Birth: January 10, 1988

Gender (circle one): Male Female

At: OTAY MESA, CA, POE

Date: September 23, 2007

Before: MARCOS SIFUENTES

(Name and Title)

In the SPANISH

language. Interpreter M. SIFUENTES

Employed by CBP

I am an officer of the United States Immigration and Naturalization Service. I am authorized to administer the immigration laws and to take sworn statements. I want to take your sworn statement regarding your application for admission to the United States. Before I take your statement, I also want to explain your rights, and the purpose and consequences of this interview.

You do not appear to be admissible or to have the required legal papers authorizing your admission to the United States. This may result in your being denied admission and immediately returned to your home country without a hearing. If a decision is made to refuse your admission into the United States, you may be immediately removed from this country, and if so, you may be barred from reentry for a period of 5 years or longer.

This may be your only opportunity to present information to me and the Immigration and Naturalization Service to make a decision. It is very important that you tell me the truth. If you lie or give misinformation, you may be subject to criminal or civil penalties, or barred from receiving immigration benefits or relief now or in the future.

Except as I will explain to you, you are not entitled to a hearing or review.

U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer about your fear or concern. That officer will determine if you should remain in the United States and not be removed because of that fear.

Until a decision is reached in your case, you will remain in the custody of the Immigration and Naturalization Service.

Any statement you make may be used against you in this or any subsequent administrative proceeding.

Q: Do you understand what I've said to you?

A: Yes

Q: Do you have any questions?

A: No

Q: Are you willing to answer my questions at this time?

A: Yes

Q: Do you swear or affirm that all the statements you are about to make are true and complete?

A: Yes.

Q: What is your true and correct name?

A: Luis Manuel GOMEZ Dominguez

Q: What is your date of birth?

A: January 10, 1988

... (CONTINUED ON I-831)

## U.S. Department of Justice

Immigration and Naturalization Service

Continuation Page for Form I-867A

Alien's Name <b>LUIS M. GOMEZ DOMINGUEZ</b>	File Number <b>2199-762-025</b>	Date <b>September 23, 2007</b>
--	------------------------------------	-----------------------------------

Q: In what City, State and Country were you born?  
A: Villa Guerrero, Guerrero, Mexico

Q: Of what country are you a citizen of?  
A: Mexico

Q: Of what country is your mother a citizen of?  
A: Mexico

Q: Of what country is your father a citizen of?  
A: Mexico

Q: On what day did you attempt to come enter the United States?  
A: Today

Q: How did you attempt to enter the United States?  
A: On foot through pedestrian

Q: What type of document did you present to enter the United States?  
A: A counterfeit I-94 212(d)(5)

Q: Where and how did you obtain this document?  
A: I bought it in Tijuana, Mexico

Q: How much did you pay or going to pay for this document?  
A: I paid \$50.00 (US)

Q: What is your purpose for attempting to enter the United States?  
A: To look for work

Q: Where was your destination in the United States?  
A: San Diego, CA

Q: Do you or have you ever had legal entry documents to enter or reside in the United States?  
A: No

Q: Have you lived in the United States previously?  
A: Yes

Q: Do you have any applications or petitions pending with the Immigration and Naturalization Service?  
A: No

Q: Have you ever been removed or deported from the United States previously?  
A: Yes

Q: Do you have any fear or concern about being returned to your home country or being removed from the United States?  
A: No

Q: Would you be harmed if you are returned to your home country or country of last residence?  
A: No

...(CONTINUED ON NEXT PAGE)

Signature  MARCOS SIFUENTES <i>Marcos</i>	Title  CBPO
---	-------------------

2 of 4 Pages

6/11/07



U.S. Department of Justice  
Immigration and Naturalization Service

Continuation Page for Form I-867A

Alien's Name <b>LUIS M. GOMEZ DOMINGUEZ</b>	File Number <b>702 031</b>	Date <b>September 23, 2007</b>
<b>Q: Do you have any questions or is there anything else you would like to add?</b> <b>A: No</b>  *****NOTHING FOLLOWS*****		
Signature  <b>MARCOS SIFUENTES</b> <i>M. Sifuentes</i>	Title  <b>CBPO</b>	

3 of 4 PagesLMGD

U.S. Department of Justice  
Immigration and Naturalization Service

**Jurat for Record of Sworn Statement in  
Proceedings under Section 235(b)(1) of the Act**

---

Q: Why did you leave your home country or country of last residence?

A. **TO WORK**

Q: Do you have any fear or concern about being returned to your home country or being removed from the United States?

A. **NO**

Q: Would you be harmed if you are returned to your home country or country of last residence?

A. **NO**

Q: Do you have any question or is there anything else you would like to add?

A. **NO**

I have read (or have had read to me) this statement, consisting of 4 pages (including this page). I state that my answers are true and correct to the best of my knowledge and that this statement is a full, true and correct record of my interrogation on the date indicated by the above named officer of the Immigration and Naturalization Service. I have initialed each page of this statement (and the corrections noted on page(s) \_\_\_\_\_).

Signature: LUIS M. GOMEZ DOMINGUEZ *X. LUIS M. GOMEZ*

Sworn and subscribed to before me at OTAY MESA, CA, POE  
on September 22, 2007.

**MARCOS SIFUENTES**

*Marcos Sifuentes*  
\_\_\_\_\_  
Officer, United States Immigration and Naturalization Service

Witnessed by: M. HERNANDEZ CBPO

# **EXHIBIT 3**

U.S. Department of Justice  
Immigration and Naturalization Service

**Record of Sworn Statement in Proceedings  
under Section 235(b)(1) of the Act**

Office: SAN YSIDRO, CA, POE

File No. [REDACTED]

Statement by: LUIS M. GOMEZ DOMINGUEZ

In the case of: LUIS M. GOMEZ DOMINGUEZ

Date of Birth: January 10, 1988

Gender (circle one): Male Female

At: SAN YSIDRO, CA, POE

Date: September 24, 2007

Before: WEI LING

(Name and Title)

**CBP OFFICER**

In the Spanish

language. Interpreter Ling

Employed by DHS-CBP

I am an officer of the United States Immigration and Naturalization Service. I am authorized to administer the immigration laws and to take sworn statements. I want to take your sworn statement regarding your application for admission to the United States. Before I take your statement, I also want to explain your rights, and the purpose and consequences of this interview.

You do not appear to be admissible or to have the required legal papers authorizing your admission to the United States. This may result in your being denied admission and immediately returned to your home country without a hearing. If a decision is made to refuse your admission into the United States, you may be immediately removed from this country, and if so, you may be barred from reentry for a period of 5 years or longer.

This may be your only opportunity to present information to me and the Immigration and Naturalization Service to make a decision. It is very important that you tell me the truth. If you lie or give misinformation, you may be subject to criminal or civil penalties, or barred from receiving immigration benefits or relief now or in the future.

Except as I will explain to you, you are not entitled to a hearing or review.

U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer about your fear or concern. That officer will determine if you should remain in the United States and not be removed because of that fear.

Until a decision is reached in your case, you will remain in the custody of the Immigration and Naturalization Service.

Any statement you make may be used against you in this or any subsequent administrative proceeding.

Q. Do you understand what I've said to you?

A. Yes.

Q. Do you have any questions?

A. No.

Q. Are you willing to answer my questions at this time?

A. Yes.

Q. Do you swear or affirm that all statements you are about to make are true and complete?

A. Yes.

Q. What is your true and correct name?

A. Luis Manuel Gomez Dominguez

Q. What is your date of birth?

A. January 10, 1988.

Q. In what City, State and Country were you born?


A. Toluca, Toluca, MEXICO

...(CONTINUED ON I-831)

L M G D

U.S. Department of Justice  
Immigration and Naturalization Service

Continuation Page for Form I-867A

Alien's Name <b>LUIS M. GOMEZ DOMINGUEZ</b>	File Number 	Date <b>September 24, 2007</b>
--	--	-----------------------------------

Q. Of what country are you a citizen?  
A: MEXICO.

Q. Of what country is your mother a citizen?  
A: MEXICO.

Q. Of what country is your father a citizen?  
A: MEXICO.

Q. On what day did you attempt to enter the United States?  
A: Yesterday (September 23rd, 2007).

Q. How did you attempt to enter the United States?  
A: In a cargo area of the vehicle.

Q: Did you try to enter United States without going through the inspection process?  
A: YES.

Q: Do you have family in the United States?  
A: Yes, my uncle.

Q: Do you have or have you ever had any legal entry documents to enter or reside in the United States?  
A: NO.

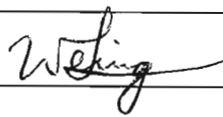
Q: Do you have any petitions/applications pending with the United States Immigration Service?  
A: NO

Q: What was your purpose for attempting to enter the United States?  
A: To meet with Uncle from New York.

Q: Where was your destination in the United States?  
A: San Francisco, California

Q: Have you ever been removed or deported from the United States previously?  
A: Yes.

L M G D

Signature  WEI LING 	Title  CBP OFFICER
---	--------------------------

2 of 3 Pages

U.S. Department of Justice  
Immigration and Naturalization Service

**Jurat for Record of Sworn Statement in  
Proceedings under Section 235(b)(1) of the Act**

Q: Why did you leave your home country or country of last residence?

A. **To meet with uncle from New York.**

Q: Do you have any fear or concern about being returned to your home country or being removed from the United States?

A. **No.**

Q: Would you be harmed if you are returned to your home country or country of last residence?

A. **No.**

Q: Do you have any question or is there anything else you would like to add?

A. **No.**

L M G D

I have read (or have had read to me) this statement, consisting of 31 pages (including this page). I state that my answers are true and correct to the best of my knowledge and that this statement is a full, true and correct record of my interrogation on the date indicated by the above named officer of the Immigration and Naturalization Service. I have initialed each page of this statement (and the corrections noted on page(s) \_\_\_\_\_).

Luis M Gomez D.  
Signature: **LUIS M. GOMEZ DOMINGUEZ**

Sworn and subscribed to before me at SAN YSIDRO, CA, POE  
on September 24, 2007.

**WEI LING**  
**CBP OFFICER**  
Officer, United States Immigration and Naturalization Service

Witnessed by: **A. Clay**



# **EXHIBIT 4**

Entered in  
GEMS

U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
1900 EAST WHATLEY ROAD  
OAKDALE, LA 71463

In the Matter of:  
GOMEZ-DOMINGUEZ, LUIS MANUEL

Case No.: A99-702-025

IN REMOVAL PROCEEDINGS

RESPONDENT

ORDER OF THE IMMIGRATION JUDGE

Upon the basis of respondent's admissions, I have determined that the respondent is subject to removal on the charge(s) in the Notice to Appear.

Respondent has made no application for relief from removal.

It is HEREBY ORDERED that the respondent be removed from the United States to MEXICO on the charge(s) contained in the Notice to Appear.

Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in INA section 237(a), who willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General shall be fined and/or imprisoned for up to ten years. Further, any alien who willfully fails or refuses to depart from the United States pursuant to a final removal order or present for removal at the time and place required by the Attorney General shall pay a civil penalty of not more than \$500 to the Commissioner for each day the alien is in violation of this section.

JOHN A. DUCK, JR.  
Immigration Judge  
Date: Apr 9, 2007

Appeal: NO APPEAL (A/I/B)  
Appeal Due By: May 9, 2007

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)

TO: ☒ ALIEN ☐ ALIEN c/o Custodial Officer ☐ Alien's ATT/REP ☐ DHS

DATE: 4/9/07 BY: COURT STAFF

Attachments: ☐ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other

Form EOIR 7 - 4T (REMOVAL Order)

# EXHIBIT 5

U.S. Department of Justice  
Immigration and Naturalization Service

# Warrant of Removal/Deportation

1010 East Whatley Road  
Oakdale, LA 71463

File No: 

Date: 04/11/2007

To any officer of the United States Immigration and Naturalization Service:

**Luis Manuel GOMEZ-Dominguez**

(Full name of alien)

aka:

who entered the United States at Douglas, Arizona on 02/24/2004  
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

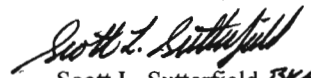
- ☒ an immigration judge in exclusion, deportation or removal proceedings
- ☐ a district director or a district director's designated official
- ☐ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

Section (s) 212(a)(6)(A)(i) & 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

Transportation company which brought him to the United States, if practicable; otherwise at the expense of the appropriations, "Salaries and Expenses, Immigration and Naturalization Service, 2007" including the expense of an attendant if necessary.



Scott L. Sutterfield

(Signature of INS official)

Assistant Field Office Director

(Title of INS official)

4/13/07 Oakdale, Louisiana

(Date and office location)

## RETURN EXECUTED I-205 TO:

Immigration and Customs Enforcement  
1010 East Whatley Road  
Oakdale, LA 71463

To be completed by Service officer executing the warrant:

Name of alien being removed:

**Luis Manuel GOMEZ-Domínguez**

**A099 702 025**

Port, date, and manner of removal:

Hidalgo POC-TX, 04-24-07, AFACOT.



Photograph of alien removed



Right index fingerprint of alien removed

DOB  
2-7-08  
K5

Luis M. Gomez  
(Signature of alien being fingerprinted)

Ernesto Dangel  
(Signature and title of INS official taking print)

Departure witnessed by:

A. J. RIVERA / Lea  
(Signature and title of INS official)

If actual departure is not witnessed, fully identify source or means of verification of departure:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here. ☐

Departure Verified by:

\_\_\_\_\_  
(Signature and title of INS official)

# **EXHIBIT 6**



DEC 13 2007

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

1	UNITED STATES OF AMERICA,	)	Criminal Case No. 07CR2952- <i>WOM</i>
2		)	
3	Plaintiff,	)	<u>S U P E R S E D I N G</u>
4		)	<u>I N F O R M A T I O N</u>
5	v.	)	
6		)	Title 18, U.S.C., Sec. 1001 -
7	LUIS MANUEL GOMEZ-DOMINGUEZ,	)	False Statement to a Federal
8		)	Officer
9	Defendant.	)	

The United States Attorney charges:

On, or about September 29, 2007, within the Southern District of California, defendant LUIS MANUEL GOMEZ-DOMINGUEZ, in a matter within the jurisdiction of the United States Department of Homeland Security, a department and agency of the United States, did knowingly and willfully make false, fictitious and fraudulent statements and representations as to material facts in that he did represent and state to a federal officer that his date of birth was January 10, 1982, whereas in truth and fact, as defendant then and there well knew that statement and representation was false, fictitious and fraudulent when made; in violation of Title 18, United States Code, Section 1001.

DATED: December 13, 2007.

KAREN P. HEWITT  
United States Attorney

*Wiso*  
WILLIAM A. HALL, JR.  
Assistant U.S. Attorney

# **EXHIBIT 7**

AO 245B (Rev. 9/00) Judgment in a Criminal Case  
Sheet 1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA  
v.  
LUIS MANUEL GOMEZ-DOMINGUEZ

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

Case Number: 07CR2952-JM  
ERICK GUZMAN, FED DEF INC.,  
Defendant's Attorney

REGISTRATION NO. 27206265

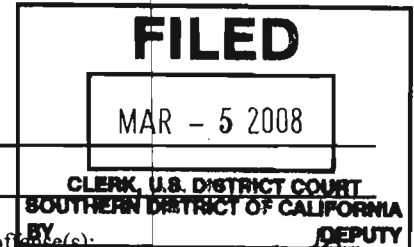
☐

THE DEFENDANT:

☒ pleaded guilty to count(s) ONE OF THE SUPERSEDING INFORMATION.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):



Title & Section

Nature of Offense

18 USC 1001

FALSE STATEMENT TO A FEDERAL OFFICER

Count 1  
Number(s)

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☒ Count(s) UNDERLYING INDICTMENT

is ☒ are ☐ dismissed on the motion of the United States.

☒ Assessment: \$100 IS WAIVED.

☒ Fine waived

☐ Property forfeited pursuant to order filed \_\_\_\_\_, included herein.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

FEBRUARY 29, 2008

Date of Imposition of Sentence

*Jeffrey T. Miller*

HON. JEFFREY T. MILLER  
UNITED STATES DISTRICT JUDGE

Entered Date:

07CR2952-JM

AO 245B (Rev. 9/00) Judgment in Criminal Case  
Sheet 2 — Imprisonment

Judgment — Page 2 of 4

DEFENDANT: LUIS MANUEL GOMEZ-DOMINGUEZ  
CASE NUMBER: 07CR2952-JM

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of  
TIME SERVED.

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_  
as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before \_\_\_\_\_  
☐ as notified by the United States Marshal.  
☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

07CR2952-JM

DEFENDANT: LUIS MANUEL GOMEZ-DOMINGUEZ  
CASE NUMBER: 07CR2952-JM

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:  
THREE (03) YEARS.

### MANDATORY CONDITIONS

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

The defendant shall cooperate as directed in the collection of a DNA sample, pursuant to 18 USC 3583(d).  
*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter. Testing requirements will not exceed submission of more than 8 drug tests per month during the term of supervision, unless otherwise ordered by court.

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

07CR2952-JM



AO 245B (Rev. 9/00) Judgment in a Criminal Case  
Sheet 3 — Continued 2 — Supervised Release

Judgment—Page 4 of 4

DEFENDANT: LUIS MANUEL GOMEZ-DOMINGUEZ  
CASE NUMBER: 07CR2952-JM

### SPECIAL CONDITIONS OF SUPERVISION

- ☐ Not possess any firearm, explosive device or other dangerous weapon.
- ☐ Submit to a search of person, property, residence, abode or vehicle, at a reasonable time and in a reasonable manner, by the probation officer.
- ☐ The defendant shall violate no laws, federal, state and local, minor traffic excepted.
- ☒ If deported, excluded, or allowed to voluntarily return to country of origin, not reenter the United States illegally and report to the probation officer within 24 hours of any reentry to the United States; supervision waived upon deportation, exclusion, or voluntary departure.
- ☐ Not transport, harbor, or assist undocumented aliens.
- ☐ Not associate knowingly with alien smugglers.
- ☐ Not reenter the United States illegally.
- ☐ Not enter or reside in the Republic of Mexico without written permission of the Court or probation officer.
- ☐ Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
- ☐ Not possess any narcotic drug or controlled substance without a lawful medical prescription.
- ☐ Not associate with known users of, smugglers of, or dealers in narcotics, controlled substances, or dangerous drugs in any form.
- ☐ Participate in a program of mental health treatment as directed by the probation officer, take all medications as prescribed by a psychiatrist/physician, and not discontinue any medication without permission. The Court authorizes the release of the presentence report and available psychological evaluations to the mental health provider, as approved by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.
- ☐ Defendant should not be subject to involuntary treatment, or the taking of any medication. Rather in the absence of defendant's consent to treatment or medication, the court shall determine the reasonableness or necessity of any proposed treatment or medication at issue.
- ☐ Participate in a mental health treatment program as directed by the probation office.
- ☐ Provide complete disclosure of personal and business financial records to the probation officer as requested.
- ☐ Be prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without approval of the probation officer.
- ☐ Seek and maintain full time employment and/or schooling or a combination of both.
- ☐ Resolve all outstanding warrants within            days.
- ☐ Complete            hours of community service in a program approved by the probation officer within
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the Bureau of Prisons for a period of            commencing upon release from imprisonment.
- ☐ Remain in your place of residence for a period of            , except while working at verifiable employment, attending religious services or undergoing medical treatment.
- ☐ Not engage in any form of telemarketing, as defined in 18 USC 2325, without the written permission of the probation officer.
- ☐ Comply with the conditions of the Home Confinement Program for a period of            months and remain at your residence except for activities or employment as approved by the court or probation officer. Wear an electronic monitoring device and follow procedures specified by the probation officer. Pay the total cost of electronic monitoring services, or a portion if deemed appropriate by the probation officer.
- ☐ Participate in a program of drug or alcohol abuse treatment, including urinalysis testing and counseling, as directed by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.

07CR2952-JM



# EXHIBIT 8

U.S. Department of Homeland Security

## Notice of Intent/Decision to Reinstate Prior Order

File No: 899-702-025Event No: EO30709000310Date: September 30, 2007Name: Luis Manuel GOMEZ-DOMINGUEZ

In accordance with section 241(a)(5) of the Immigration and Nationality Act (Act) and 8 CFR 241.8, you are hereby notified that the Secretary of Homeland Security intends to reinstate the order of Removal entered against you. This intent is based on the following determinations:

(Deportation / exclusion / removal)

1. You are an alien subject to a prior order of deportation / exclusion / removal entered on April 9, 2007 at Oakdale, Louisiana.

(Date) (Location)

2. You have been identified as an alien who:

- ☒ was removed on September 24, 2007 pursuant to an order of deportation / exclusion / removal.
- (Date)
- ☐ departed voluntarily on \_\_\_\_\_ pursuant to an order of deportation / exclusion / removal on or after the date on which such order took effect (i.e., who self-deported).
- (Date)

3. You illegally reentered the United States on or about September 28, 2007 at or near Tecate, California.

(Date) (Location)

In accordance with Section 241(a)(5) of the Act, you are removable as an alien who has illegally reentered the United States after having been previously removed or departed voluntarily while under an order of exclusion, deportation or removal and are therefore subject to removal by reinstatement of the prior order. You may contest this determination by making a written or oral statement to an immigration officer. You **do not** have a right to a hearing before an immigration judge.

The facts that formed the basis of this determination, and the existence of a right to make a written or oral statement contesting this determination, were communicated to the alien in the SPANISH language.

JOSEPH FEJARAN

(Printed or typed name of official)

(Signature of officer)

BORDER PATROL AGENT

(Title of officer)

## Acknowledgment and Response

I ☐ do ☒ do not wish to make a statement contesting this determination.

09/30/07

(Date)

Luis m Gomez

(Signature of Alien)

## Decision, Order, and Officer's Certification

Having reviewed all available evidence, the administrative file and any statements made or submitted in rebuttal, I have determined that the above-named alien is subject to removal through reinstatement of the prior order, in accordance with section 241(a)(5) of the Act.

September 29, 2007

(Date)

EL CAJON, CALIFORNIA

(Location)

ANALDO S. Rios

(Printed or typed name of official)

(Signature of authorized deciding official)

ACTING PATROL AGENT IN CHARGE

(Title)

U.S. Department of Homeland Security

## Warrant of Removal/Deportation

File No: 2099-702007  
Event No: EC-20  
Date: September 30, 2007

To any immigration officer of the United States Department of Homeland Security:

Luis Manuel GOMEZ-DOMINGUEZ

(Full name of alien)

who entered the United States at Tecate, California on September 28, 2007  
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- ☒ an immigration judge in exclusion, deportation, or removal proceedings
- ☐ a designated official
- ☐ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:  
**241 (a) (5)**

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

**THE DEPARTMENT OF HOMELAND SECURITY.**



(Signature of immigration officer)

ACTING PATROL AGENT IN CHARGE

(Title of immigration officer)

September 29, 2007, El Cajon, California

(Date and office location)

To be completed by immigration officer executing the warrant:

Name of alien being removed:

Luis Manuel GOMEZ-DOMINGUEZ

A7099 702 025

Port, date, and manner of removal:

SYS 3/03/2008 AFOT



Photograph of alien removed



Right index fingerprint of alien removed

QED  
7-7-08  
KI

LUIS M. GOMEZ D.

(Signature of alien being fingerprinted)

JOSEPH FEJARAN BORDER PATROL AGENT

(Signature and title of immigration officer taking print)

*[Handwritten signature]*

Departure witnessed by:

*[Handwritten signature]* 792141 127  
(Signature and title of immigration officer)

If actual departure is not witnessed, fully identify source or means of verification of departure:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here. ☐

Departure Verified by:

\_\_\_\_\_  
(Signature and title of immigration officer)

# EXHIBIT 9

**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services

**Certificate of Nonexistence of Record**

7/22/2008

I, Paul Pierre, certify to the following:

1. That I am the District Director, San Diego District, Citizenship and Immigration Services, United States Department of Homeland Security, and by virtue of the authority contained in Section 475(b)(1) of the Homeland Security Act of 2002, Section 290(d) of the Immigration and Nationality Act and 8 CFR 103.7(d)(4), I am authorized to certify the nonexistence of an official Service record.
2. That Citizenship and Immigration Services maintains centralized records relating to immigrant aliens who entered the United States on or after June 30, 1924, to nonimmigrant aliens who entered on or after June 30, 1948, and a centralized index of all persons naturalized on or after September 27, 1906.
3. That I, or an agency employee acting at my direction, performed a search for records relating to the subject identified below. Specifically this office searched Deportable Alien Control System (DACS), Computer Linked Application Information Management System (CLAIMS), and the Central Index System (CIS).
4. That after a diligent search was performed in these database systems, no record was found to exist indicating that the subject listed below obtained consent at anytime prior to March 1, 2003, from the Attorney General of the United States, or at anytime after February 28, 2003 from the Secretary of the Department of Homeland Security, for re-admission in the United States in accordance with the 6 U.S.C. §§ 202(3) and (4) and U.S.C. § 557.

File No: A99 702 025

Subject: Luis Manuel Gomez-Dominguez

Also Known As (AKA): Luis Gomez Dominguez

Luis Manuel Gomez

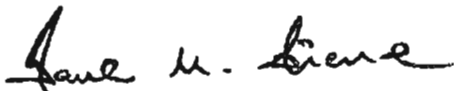
Luis Miguel Gomez-Dominguez

Luis Manuel Gomex Dominguez

Manuel Luis Dominguez

Born on: 1/10/1988 (other DOB; 1/10/1982)

Country of Birth: Mexico



Paul Pierre  
District Director  
San Diego District Office

# EXHIBIT 10



**CRIMINAL INFORMATION**

IN THE CIRCUIT COURT OF BENTON COUNTY, ARKANSAS

NINETEENTH JUDICIAL DISTRICT WEST, II DIVISION

State of Arkansas

2006 DEC 18 AM 8 23

vs.

LUIS MANUEL GOMEZ-DOMINGUEZ

Case No. 2006-1825 -2

BRENDA DESHIELDS  
CLERK AND RECORDER  
BENTON COUNTY, AR

Filing Date 12/18/2006

	Multiple D's Charged <u>Together</u> -or- Multiple D's Charged <u>Separately</u>	
Amended Information	Co-D's	Related Case #'s
Adding Offense?		
Dropping Offense?		
Changing Offense?		
D Charged as Habitual?		

Defendant's Full Name	Date of Birth	Race	Sex	SID #	Arrest Date
Luis Manuel Gomez-Dominguez	1/10/1988	Hispanic	Male		11/9/2006

Address (Street, City, State, Zip) 2323 W Beechwood Rogers, Arkansas 72756	SS#	Driver's License No.
	Arrest Tracking #	Prosecutor's File #
	933406	

Alias 1	Alias 2	Alias 3

I, ROBIN GREEN, Prosecuting Attorney, Nineteenth Judicial District West, in the name of the State of Arkansas, Benton County, Accuse the above named Defendant of the following crime(s):

I, Brenda DeShields, certify this instrument is a true  
Copy of the from elph  
State V. Gomez-Dominguez  
on file in this office, dated 12/18/06  
Book \_\_\_\_\_ at page \_\_\_\_\_  
Brenda DeShields  
Brenda DeShields, Clerk  
By Connie Clear D.C.

Code	Offense(s)	A/S/C	Off. Date	Cts	F/M	Class
5-14-110(a)(1)	SEXUAL INDECENCY WITH A CHILD		10/5/2006	1	F	D

Committed as follows: **Count # 1, Offense: 5-14-110(a)(1) ~ SEXUAL INDECENCY WITH A CHILD (SUBSEQUENT TO 2001 AMENDMENT). Class D Felony**

The Defendant on or about, October 05, 2006 in Benton County, Arkansas, being eighteen (18) years old or older, the person solicits another person who is less than fifteen (15) years of age or who is represented to be less than fifteen (15) years of age to engage in sexual intercourse, deviate sexual activity, or sexual contact

**to wit: On or about October 5<sup>th</sup>, 2006, in Benton County, Arkansas, said Defendant, being over the age of eighteen, solicited A.G., who is less than fifteen (15) years of age to engage in sexual intercourse,**

against the peace and dignity of the State of Arkansas.

Entered this 18th day of December, 2006.  
Robin Green, Prosecuting Attorney

By:   
Deputy Prosecuting Attorney

SM

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS MANUEL GOMEZ-DOMINGUEZ,

Defendant.

Case No. 08CR1003-WQH

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that:

I, ANNE KRISTINA PERRY, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101.

I am not a party to the above-entitled action. I have caused service of the Government's Response in Opposition to Defendant's Motion to Dismiss on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Erick L. Guzman, Federal Defenders of San Diego, Inc.  
Attorney for Defendant Luis Manuel Gomez-Dominguez

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 8, 2008

/s/ Anne Kristina Perry  
ANNE KRISTINA PERRY  
anne.perry2@usdoj.gov